

2/17/2021

JULIA C. DUDLEY, CLERK

BY: s/ A. Little
DEPUTY CLERK

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

BRENDA M. ANDERSON,

Plaintiff,

v.

Case No.: 6:21cv00004

**MATTHEW O'HERRON
Administrator of the Estate of
MATTHEW BRIAN DEAN, Deceased,**

and

NEW PRIME INC.,

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Matthew O'Herron, Administrator of the Estate of Matthew Brian Dean ("Dean Estate"), deceased, and New Prime, Inc. d/b/a Prime Inc. ("Prime"), by counsel, remove this case from the Circuit Court for the County of Rockbridge to the Lynchburg Division of the United States District Court for the Western District of Virginia.

INTRODUCTION AND BACKGROUND

1. Plaintiff Brenda M. Anderson filed this action in the Circuit Court for the County of Rockbridge, Virginia (Plaintiff's Complaint is attached as Exhibit A). The Dean Estate and Prime have not been served yet in this matter but are accepting service by virtue of the filing of these pleadings related to removal of the case.

2. Plaintiff alleges a cause of action in her lawsuit for negligence the result of which she suffered injuries.

3. Plaintiff's Complaint seeks an award of \$600,000.00 against defendants jointly and/or severally.

4. Defendants filed their Answer concurrently with the filing of this pleading.

5. Copies of all process, pleadings, and orders served by or upon Defendants are attached to this Notice as Exhibit A, as required by 28 U.S.C. § 1446(a).

DIVERSITY JURISDICTION

6. Plaintiff is a citizen of the Commonwealth of Virginia.

7. Defendant Prime is a Nebraska corporation with its principal place of business in Springfield, Missouri.

8. Defendant Dean Estate is domiciled in the State of Florida.

9. Because the citizenship of Plaintiff is different than that of all properly joined and served Defendants, there is complete diversity of citizenship.

10. Plaintiff's Complaint includes a demand for \$600,000.00. Therefore, the amount in controversy in this lawsuit exceeds \$75,000.00, and this Court has diversity jurisdiction to hear this matter.

CONSENT

11. All Defendants who have been properly joined and served consent to the removal of this action.

TIMELINESS

12. Defendants filed this Notice of Removal within 30 days of acceptance of service of, Plaintiff's Complaint. Defendants' removal is therefore timely.

PROPER COURT

13. Venue of this removed action is properly with this Court under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district and division encompassing the state court where the action was pending.

FILING NOTICE OF REMOVAL

14. A copy of this Notice of Removal will be filed with the Circuit Court for the County of Rockbridge, Virginia, and served on Plaintiff as required by 28 U.S.C. § 1446(d).

CONCLUSION

15. This is a civil action between citizens of different states, and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs. This Court therefore has original subject matter jurisdiction under the provisions of 28 U.S.C. § 1332(a), and Defendants may remove it to this Court under 28 U.S.C. § 1441(a) and (b).

16. Should any question arise regarding the propriety of Defendants' removal of this action, Defendants request the opportunity to brief any disputed issues and to present oral argument in support of their position.

WHEREFORE, for the foregoing reasons, Defendants Matthew O'Herron, Administrator of the Estate of Matthew Brian Dean, deceased, and New Prime, Inc. d/b/a Prime Inc., by counsel, hereby remove this action to this Court for all future proceedings.

DATED: February 15, 2021

**MATTHEW O'HERRON, Administrator
of the Estate of Matthew Brian, Deceased,**

and

NEW PRIME, INC.

By Counsel



Terrence L. Graves (VSB No. 32705)

Sands Anderson PC

Bank of America Center, Ste. 2400

1111 East Main Street (23219)

P.O. Box 1998

Richmond, VA 23218-1998

Telephone: (804) 648-1636

Fax: (804) 783-7291

tgraves@sandsanderson.com

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of February, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of electronic filing (NEF) to the following:

Raphael E. Ferris, VSB # 21973

FERRIS & EAKIN, P.C.

22 Luck Avenue SW

Roanoke, Virginia 24011

540-344-3233

540-344-6608 (fax)

ray@rvalaw.com

